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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 95-225

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

In SECTION 8 of the rule, the phrase “(intro.)” should be inserted following the “1.” in the treatment clause and on the first line of the rule text.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. HSS 122.06 (9) (a), a closing parenthesis should be inserted following the “9” in the citation on line 1. Also, in this provision, the term “applicant” is changed to “party” on line 1. Should the same change be made to the word “applicant” on line 7?

b. In s. HSS 122.07 (1m) (a), the word “the” on line 2 should be deleted, as it does not appear in the current rule.

c. In s. HSS 122.09 (5) (a) 1., the word “rate” on line 3 should be changed to “rates” to reflect the current rule language. Also, in that provision, the phrase “per diem capital and operating” is inserted to modify the word “rates” on line 3. However, on lines 5 and 8, only the word “capital” is inserted to modify the word “rates.” Should the phrase “and operating” also be inserted in those two locations?

d. In s. HSS 122.09 (5) (am), the following changes should be made for consistency with the language in sub. (5) (a) 1.:

- (1) On line 2, the phrase “under this chapter” should be inserted after the word “beds” and the phrase “medical assistance” should be inserted after the second “the.”

(2) On line 6, the word “that” should be changed to “which.”

(3) On line 7, the phrase “under review” should be deleted.

e. In s. HSS 122.09 (5) (b), reference is made to “attachment A of the cost overrun approval.” Will it be obvious to the reader what “attachment A” refers to? The same comment applies to the reference to attachment A in s. HSS 122.09 (5) (c).

f. The language in the first sentence of s. HSS 122.09 (5) (c) is awkward and its meaning is unclear. The sentence states that any person submitting an application for approval for a project which is subsequently approved after being initiated without department approval under sub. (3) (b) shall state the impact on Medical Assistance per diem rates stated in the original application. The beginning of the sentence would be more readable if rewritten as follows: “Any person submitting an application for approval of a project which was initiated without department approval under sub. (3) (b) shall state....” Also, if the project was originally initiated without department approval, would there have been in all instances an “original application” in which Medical Assistance per diem rates would have been stated? Is it not possible that the project was initially commenced without an application being made to the department? If so, the reference to the “original application” would need to be changed. In the second sentence, the phrase “of operation” could be inserted after the word “year” on line 6. Finally, should the reference in that sentence be to the first full year following approval of the project, as currently stated, or should it be following completion of the project, as is provided in sub. (5) (b)?

g. Section HSS 122.09 (8) (a) 1. and 2. contain two new items for which documentation must be provided if a request is made for an extension of up to six months in the period of validity of a project approval: that the project will be completed within the six-month period and that a good-faith effort is being made to move ahead on the project. It appears that the second item would be subsumed by the first in many, if not all, cases, because in order to document that a project will be completed within that relatively short period of time, the person would almost invariably have to show that some effort is being made to “move ahead” on the project. Perhaps the two requirements would make more sense if rewritten to require documentation of the tasks remaining to complete the project within the allotted time and of the actual work already finished or in progress to meet the deadline.